

EXHIBIT 33

James Hagey, Vol 1

July 24, 2017

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

IN RE SEAGATE TECHNOLOGY LLC
LITIGATION,

CASE NO. 5:16-CV-00523-JCS

CONSOLIDATED ACTION,

VIDEOTAPED DEPOSITION OF JAMES HAGEY

San Francisco, California

Monday, July 24, 2017

Reported by: Ashley Soevyn, CSR No. 12019

Job No. 2259

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1	drives, with consistent quality and	1 BY MS. SIU:
2	performance-enhancing innovation and features.	2 Q Okay. Can you tell me if this looks like
3	Q And then I think you also mentioned that	3 the data sheet you reviewed on Seagate's websites?
4	you had relied on subparagraph C, "proven quality	4 A Yes, ma'am, it is.
5	and performance"?	5 Q Okay. And you said that you reviewed
6	A Yes, ma'am.	6 that data sheet prior to purchasing your drive?
7	Q And can you tell me why you relied on	7 A I did.
8	that statement?	8 Q Going back to 179 of the complaint.
9	A Because they said they had built quality	9 You'll notice in that paragraph there are examples
10	hard drives that had good performance.	10 one through five, of different representations that
11	Q And, finally, with subparagraph A, you	11 you relied on. We're just going to go one by one
12	mentioned that you relied on that as well. Can you	12 and kind of talk about them.
13	tell me why?	13 A Okay.
14	A Just because it speaks to the reliability	14 Q So Paragraph 179 of the operative states
15	of any hard drive.	15 that you considered the AFR data to be material
16	Q Can you tell me what you mean by that?	16 because it pertained to the internal Barracuda's
17	A Well, I interpret it as meaning that a	17 reliability and longevity; is that correct?
18	hard drive that is getting lots of read and writes	18 A Yes.
19	and being consistently used and accessed. And that,	19 Q And can you tell me a little bit about
20	even in that environment, it would continue to	20 your understanding of what AFR data is?
21	operate.	21 A Yes. It's the average failure rate for a
22	Q Okay. And then we're going to flip back	22 hard drive, just in general.
23	to the section of allegations. So we're going to	23 Q And can you tell me how AFR is measured?
24	Paragraph 178.	24 A I cannot.
25	A Okay.	25 Q Okay. And have you seen the term "AFR"
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1	Q Actually, we've been going for about an	1 or "annualized failure rate" during your 20-year
2	hour. Do you want to go ahead take a break now?	2 career --
3	A That would be good.	3 A Yes.
4	Q Okay.	4 Q -- in information technology services?
5	THE VIDEOGRAPHER: This marks the end of	5 A I have.
6	DVD 1 to the deposition of Mr. Hagey. The time is	6 Q And going to the first statement, it says
7	10:46 a.m. We're going off the record.	7 that you relied on this data in deciding to purchase
8	(Recess taken.)	8 the internal Barracuda because it caused you to
9	THE VIDEOGRAPHER: Counsel, we are now	9 believe that the drive was stable, reliable, and had
10	going on the record. This marks the beginning of	10 a long life expectancy; is that correct?
11	DVD 2 in the deposition of James Hagey -- Hagey.	11 A It is.
12	It's 10:56 a.m. We're now on the record.	12 Q What caused that belief? Actually, let
13	BY MS. SIU:	13 me rephrase.
14	Q So, at Paragraph 178 of the operative	14 So, remember, this paragraph starts
15	complaint, it says that you read the Barracuda data	15 talking about AFR and how you viewed that
16	sheet, including AFR data; is that correct?	16 representation.
17	A Yes.	17 A Yes.
18	Q So if you'll bear with me and flip to	18 Q So what about that representation, the
19	Exhibit B of the operative complaint. And if you're	19 AFR, made you believe that the drive was stable,
20	looking at the page numbers at the top, it's going	20 reliable, and had a long expected life?
21	to say document 62-2.	21 A Because it was such a -- because it was
22	THE REPORTER: Fifty-two?	22 such a small number.
23	MS. SIU: Sixty-two.	23 Q Okay. And can you tell me, in your
24	THE WITNESS: I'm there.	24 opinion, what constitutes a long expected life?
25		25 A For a hard drive?

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<p>1 Q Okay. And in Paragraph 184, it mentions 2 that you haven't installed the refurbished drive 3 because you don't want to lose your data for a third 4 time; is that correct?</p> <p>5 A The -- I didn't get a third one.</p> <p>6 Q Oh.</p> <p>7 A I did not send back the second failed 8 drive, because I didn't want to have to deal with 9 another bad drive.</p> <p>10 Q Gotcha.</p> <p>11 It had mentioned that, in the sort of 12 last line, it says that you lost some data; is that 13 correct?</p> <p>14 A That is correct.</p> <p>15 Q Okay. So was that -- did you lose data 16 from the original drive?</p> <p>17 A The data on the original drive, I lost 18 data on both drives, actually.</p> <p>19 Q Okay. And can you tell me what type of 20 data you lost?</p> <p>21 A Personal photographs, music, videos.</p> <p>22 Q Were those backed up anywhere?</p> <p>23 A No.</p> <p>24 Q And did you receive -- or, sorry, did you 25 seek any recovery services after either of those</p>	<p>Page 74</p> <p>1 Q And did you read any of the statements 2 made by Seagate regarding RAID capabilities, or the 3 internal Barracuda's RAID capabilities, prior to 4 purchasing --</p> <p>5 A Yes.</p> <p>6 Q Sorry -- prior to purchasing the drive?</p> <p>7 A Yes.</p> <p>8 Q Did you rely on any of those statements 9 considering you weren't going to use the drive on a 10 RAID configuration?</p> <p>11 A Yes.</p> <p>12 Q Why did you rely on them?</p> <p>13 A Because RAID is typically a more critical 14 application of a computer setup where you just 15 cannot afford to lose your data. And my assumption 16 was that a drive suitable for RAID would be just as 17 suitable for single-drive storage.</p> <p>18 Q Gotcha.</p> <p>19 And just kind of turning to the -- to 20 another term that's used throughout the complaint.</p> <p>21 Have you heard of a NAS before?</p> <p>22 A Yes.</p> <p>23 Q Do you know what it?</p> <p>24 A Yes.</p> <p>25 Q Can you tell me?</p>
<p>1 drives failed?</p> <p>2 A I did not.</p> <p>3 Q So we talked a little bit about 4 representations regarding AFR and what your 5 interpretation of what AFR was. I want to do the 6 same for RAID now.</p> <p>7 A Okay.</p> <p>8 Q So can you tell me what a RAID is?</p> <p>9 A It's a redundant array. It's multiple 10 disks run together so that if one fails you don't 11 lose your data; you just replace one disk that has 12 failed.</p> <p>13 Q And given your hobbies with videography 14 and things of that nature, do you use RAID, a RAID 15 configuration, for things like faster speeds?</p> <p>16 A I have, but -- I have, but at this time 17 I'm not.</p> <p>18 Q So it's mostly for data redundancy that 19 you're using your RAID?</p> <p>20 A Correct.</p> <p>21 Q So I know that you mentioned that you 22 have a RAID at home now, but you didn't purchase any 23 three-terabyte Barracuda drives for use in a RAID; 24 is that correct?</p> <p>25 A Correct.</p>	<p>Page 75</p> <p>1 A It's network-attached storage.</p> <p>2 Q And what -- what does a NAS -- or, what 3 purpose does a NAS serve?</p> <p>4 A It's served typically as backup for your 5 network data, and can be, you know, one drive; 6 although, I don't know who would use that.</p> <p>7 Typically, it's multiple drives in a RAID 8 configuration setup, to back up your network.</p> <p>9 Q And do you have a NAS that uses a 10 three-terabyte hard drive in Seagate?</p> <p>11 A I do not.</p> <p>12 Q And did you read any statements by 13 Seagate about the use of the three-terabyte 14 Barracuda hard drive in a NAS before purchasing the 15 drive?</p> <p>16 A Yes.</p> <p>17 Q And did you rely on Seagate statements 18 about use in a NAS configuration?</p> <p>19 A Yes, ma'am.</p> <p>20 Q Why would you -- why did you rely on 21 those statements?</p> <p>22 A It just goes back to the reliability and 23 the importance of network-attached storage to 24 businesses, or even individuals.</p> <p>25 Q What type of computer did you use your</p>

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1 I, the undersigned, a Certified Shorthand
 2 Reporter of the State of California, do hereby
 3 certify:
 4 That the foregoing proceedings were taken
 5 before me at the time and place herein set forth;
 6 that any witnesses in the foregoing proceedings,
 7 prior to testifying, were duly sworn; that a record
 8 of the proceedings was made by me using machine
 9 shorthand, which was thereafter transcribed under my
 10 direction; further, that the foregoing is a true
 11 record of the testimony given.
 12 I further certify I am neither financially
 13 interested in the action nor a relative or employee
 14 of any attorney or party to this action.
 15 IN WITNESS WHEREOF, I have this date
 16 subscribed my name.
 17
 18 Dated: _____
 19
 20
 21 *Ashley Soevyn*
 22 ASHLEY SOEVYN
 CSR No. 12019
 23
 24
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